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7 86135-8  
8 No. 39676-9-II  
9 COURT OF APPEALS  
10 DIVISION II  
11 OF THE STATE OF WASHINGTON

12 State of Washington )

13 vs. )

14 Monte Hunley )  
\_\_\_\_\_ )

) Statement of Additional Authority and  
) Certificate of Service  
) RAP 10.8

15 Appellant submits the following additional authority pursuant to RAP 10.8:

- 16 • *State v. Breitung*, 155 Wash.App. 606, 230 P.3d 614 (2010); *In re Crace*, 157 Wash.App. 81,  
17 236 P.3d 914 (2010) - Trial counsel's failure to propose a lesser included instruction amounted  
18 to ineffective assistance.  
19 • *State v. Lucero*, 168 Wash.2d 785, 230 P.3d 165 (2010) - Absent affirmative acknowledgment,  
20 the state must prove the defendant's criminal history by a preponderance of the evidence.

21 On today's date, I mailed a copy of this Statement of Additional Authority to the Grays Harbor County  
22 Prosecutor at their address of record.

23 I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF  
24 WASHINGTON THAT THE FOREGOING IS TRUE AND CORRECT.

25 Signed this January 5, 2011 at Olympia, Washington.

26 /s/ Manek R. Mistry

27 Manek R. Mistry, WSBA No. 22922  
28 Attorney for the Appellant

29  
30 *Statement of Add'l Authority- 1*

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